The inventors have surprisingly found that the presently claimed granulated sweeteners exhibit a higher dissolution rate as compared to either Aspartame alone or a mixture of Aspartame powder and Acesulfame-K powder.

The cited reference contains no disclosure or suggestion of such a granulated sweetener. Moreover, this reference contains no teaching which would suggest the improved solubility properties of the presently claimed granulated sweeteners. Accordingly, this reference cannot affect the patentability of the present claims.

The rejection of Claims 1-19 under 35 U.S.C. § 103(a) in view of Muhammad et al is respectfully traversed. Muhammad et al disclose certain sweetener compositions which contain Aspartame and Acesulfame-K. However, the sweetener compositions of Muhammad et al differ from those of the present claims in a number of key ways.

First of all, as conceded on page 4 of the Official Action, Muhammad et al is silent in regard to the particle size of the disclosed product. Moreover, contrary to the position taken in the Official Action, the granulated sweeteners having the particle size recited in the present claims are not obvious. As explained in detail in the present specification, when the particle size of the granulated sweetener is 1,400 μm or less the sweetener exhibits an unexpectedly improved dissolution rate (see, e.g., page 5, lines 4-10, of the specification). There is no teaching in Muhammad et al which would suggest these results.

Secondly, the present claims are directed toward granulated sweeteners, while Muhammad et al is completed unconcerned with granulated sweeteners.

Third, the present claims are unobvious, because they explicitly recite that the claimed sweeteners exhibit an improved dissolution rate which is greater than that exhibited by granules of Aspartame alone. In sharp contrast, Muhammad et al is concerned with the

production of sweeteners which exhibit a delayed release (*see, e.g.*, the Abstract of Muhammad et al). Thus, the presently claimed sweetener compositions exhibit an improved rate of dissolution which could not have been expected from the teachings of Muhammad et al.

In support of the assertion that the presently claimed sweetener compositions exhibit an improved rate of dissolution, Applicants cite the data presented in Tables 1 and 2 given on pages 11 and 12 of the specification.

The unexpected nature of the improved solubility properties of the presently claimed sweeteners is established by the clear teachings of Muhammad et al. Specifically, Muhammad et al is concerned with preparing compositions which exhibit a delayed release, which is essentially the opposite result afforded by the presently claimed compositions. Thus, there is nothing in Muhammad et al which could even remotely suggest the improved solubility properties of the presently claimed sweeteners.

Moreover, the fact that Muhammad et al is concerned with producing compositions which exhibit a delayed release of Aspartame and Acesulfame-K would lead the skilled artisan who was trying to improve the dissolution rate of Aspartame and Acesulfame-K completely away from the present invention. In fact, any skilled artisan who was trying to improve the dissolution rate of Aspartame and Acesulfame-K would not even consult the teachings of Muhammad et al.

For all of these reasons, the rejection is improper and should be withdrawn.

The provisional rejection of Claims 1-19 under the judicially created doctrine of obviousness-type double patenting in view of Claims 1-6 of copending application serial

number 09/581,181 is being obviated by the filing herewith of a duly executed Terminal Disclaimer. Accordingly, the rejection is no longer tenable and should be withdrawn.

The rejection of Claims 4-9 under 35 U.S.C. § 112, first paragraph, is respectfully traversed. As explained during the above-noted interview, the present specification provides ample support for the claim limitation that "said granulated sweetener exhibits a rate of dissolution in water which is greater than that exhibited by granules of Aspartame alone." In particular, the Examiner's attention is directed toward page 4, lines 5-11, of the specification. The Examiner's attention is also directed toward the data presented in Tables 1 and 2 given on pages 11 and 12 of the specification. As agreed during the interview, these data clearly support the limitation in question.

Finally, Applicants wish to bring to the Examiner's attention the fact that two Information Disclosure Statements were filed on April 24, 2001, and a third Information Disclosure Statement was filed on September 25, 2001. Applicants respectfully request acknowledgment of those three Information Disclosure Statements and an indication that the references cited therein were considered in the next communication from the PTO. The Examiner is also requested to acknowledge consideration of the documents cited in the International Search Report according to MPEP §609 by express statement in the next communication from the PTO.

Applicants submit that the application is now in condition for allowance, and early notification of such action is earnestly solicited.

Respectfully submitted,

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12-17-01

IN THE CLAIMS

Please cancel Claims 4, 6, and 8, without prejudice toward the further prosecution of these claims in a continuation and/or divisional application.

Please amend the claims as follows:

--1. (Amended) A granulated sweetener comprising Aspartame and Acesulfame-K as active ingredients, wherein the amount of the Acesulfame-K is 5 to 90% by weight based on the total amount of both the components and wherein the maximum particle size of the granules is about 1,400 μm or less and wherein said granulated sweetener exhibits a rate of dissolution in water which is greater than that exhibited by granules of Aspartame alone.--